

REMARKS/ARGUMENTS

Claims 1-24 were pending in this application. Claims 1, 17, and 24 have been amended. Claim 25 has been added. Hence, claims 1-25 are pending. No new matter enters by way of the present amendment. As such, entry of the present amendment and reconsideration of the subject application as amended is respectfully requested.

Examiner Interview

Counsel wishes to thank the Examiner for the interview of August 20, 2009. In that interview, the rejections in view of Weisfeldt were discussed. A summary of the differences between Weisfeldt and the claims of the present invention are set forth below.

Claim Rejections -- 35 USC §102

Claims 17-21 and 23 have been rejected under 35 USC §102(b) as being anticipated by Weisfeldt. This rejection is respectfully traversed in part and overcome in part.

As discussed in the interview, one important feature of claim 17 is the ability to maintain a negative intrathoracic pressure for a prolonged period of time. In turn, this provides time to lower pressure throughout the thorax which then pulls blood back into the thorax and lowers intracranial pressure.

In contrast, Weisfeldt times his ventilation cycle with chest compressions so that any vacuum is applied for a relatively short duration. Indeed, Weisfeldt provides high pressure ventilation to the lungs, making it necessary for a vacuum to be used to extract the high volume of gases that are delivered - - not to provide a prolonged vacuum to lower intracranial pressure.

Weisfeldt describes at col. 1, lines 22 and 23, that compression durations are 0.5 -- 0.6 sec. at a typical frequency of 60 times per minute. As such, the high pressure ventilation occurs for more than half a second (col. 2, lines 59-61). If a vacuum is applied before the next

chest compression, it is done so for a time well less than half a second. With such a short time, the Weisfeldt method is unable to draw blood back into the thorax as with the present invention.

In order to further clarify this distinction, claim 17 has been amended to recite that the gases are extracted for at least 0.5 second. Support for such a limitation may be found at, for example, in paragraph 0082. As such, claim 17 is clearly distinguishable over Weisfeldt. Claims 18-21 and 23 depend from claim 17 and are distinguishable for at least the same reasons.

Claim Rejections – 35 USC §103

Claims 1-16 and 22 have been rejected under 35 USC §103(a) as being unpatentable over Weisfeldt. As now amended, independent claim 1 claims a method for treating a person who can benefit from a negative pressure in the thorax and whose heart is beating. As part of the method, a vacuum is maintained for at least 0.5 second in order to enhance blood flow back to the heart.

As previously described, Weisfeldt fails to describe maintaining a vacuum for such a prolonged time, nor does it contemplate drawing blood flow back into the thorax using such a technique. Still further, with Weisfeldt the patient's heart is not beating -- thus requiring chest compressions to revive the patient. Claim 1 which recites that the heart is beating is distinguishable for this additional reason. Claims 2-16 depend from claim 1 and are distinguishable for at least the same reasons. Claim 22 depends from claim 17 and is distinguishable over Weisfeldt for at least the reasons previously described in connection with claim 17.

Claim 24 has been rejected under 35 USC §103(a) as being unpatentable over Weisfeldt in view of Abramov. As now amended, claim 24 claims a device for lowering intrathoracic pressures where the vacuum source maintains a negative intrathoracic pressure for at least 0.5 second. As previously described, Weisfeldt does not have a regulator to maintain a negative intrathoracic pressure for such a time. As such, claim 24 is distinguishable over the cited art.

Added Claim

Claim 25 has been added and claims a method for treating a person who can benefit from a negative pressure in the thorax. As part of the method a vacuum is maintained for at least one second. Since Weisfeldt does not teach such a limitation, claim 25 is distinguishable over Weisfeldt.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

/darin j gibby /
Darin J. Gibby
Reg. No. 38,464

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300
DJG/cl

62183720 v1